

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Education Credit Management Corporation,	:	
	:	Civil Action 2:12-cv-00015
Plaintiff	:	
	:	Judge Sargus
v.	:	
	:	Magistrate Judge Abel
The Higher Peaks Learning Academy, Inc.,	:	
Defendant	:	

Order

This matter was set for a telephone status conference before Magistrate Judge Mark Abel on Monday, September 17, 2012 at 10:00 a.m. Counsel for plaintiff participated in the call. Despite my warning that failure to comply with the Order would subject defendant to sanctions and place it in contempt of Court, no representative of The Higher Peaks Learning Academy, Inc. telephoned my office as directed. My law clerk attempted to reach a representative of defendant by telephone, but she was told that neither Yolanda Peaks or any other director was available to participate in the telephone call.

Pursuant to 20 U.S.C. § 1095(a)(6), Educational Credit Management Corporation is entitled to recover the amount that defendant has failed to withhold from the borrower's wages since the date of the withholding order, plus attorneys' fees, costs,

and punitive damages. Since November 8, 2010, defendant has been under a legal duty to withhold and remit to Educational Credit Management Corporation 15% of the borrower's disposable income, and defendant has failed to withhold and remit to Educational Credit Management Corporation 15% of the borrower's disposable income.

On July 24, 2012, a representative of Higher Peaks Learning Academy, Inc. was ordered to provide timely responses to plaintiff's requests for discovery in order to determine plaintiff's damages authorized under Section 1095a. Defendant was also ordered to participate in a telephone conference with the Magistrate Judge.

This matter is set for a damages hearing before the Magistrate Judge on October 18, 2012 at 2:00 p.m. Counsel for plaintiff and a representative of The Higher Peaks Learning Academy, Inc. are ORDERED to appear before me at 85 Marconi Boulevard, Room 220, Columbus, Ohio.

Assuming that borrower Yolanda Peaks has earned an annual salary of \$30,000 since November 8, 2010, defendant Higher Peaks Learning Academy owes plaintiff \$8,625.00 in addition to plaintiff's attorney fees and costs. If defendant fails to appear before me on October 18, 2012, the Magistrate Judge will recommend that judgment be entered in favor of plaintiff in the \$8,625.00 in addition to attorney fees and costs. Defendant Higher Peaks Learning Academy are DIRECTED to submit to plaintiff and to the Court a statement of Yolanda Peaks' earning statements since November 8, 2010 no later than October 11, 2012.

The Clerk of Court is DIRECTED to mail a copy of this Order to Yolanda Peaks-Bell, CEO and Executive Director, The Higher Peaks Learning Academy, Inc., 2775 Cleveland Avenue, Columbus, Ohio 43224 and Lynchelle Boswell, Director, The Higher Peaks Learning Academy, Inc., 2775 Cleveland Avenue, Columbus, Ohio 43224 by both regular and certified mail.

s/ Mark R. Abel  
United States Magistrate Judge